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**OFFICE OF PETITIONS**

In re Application of :  
Tobin :  
Application No. 10/613,707 :  
Filed: July 3, 2003 :  
Attorney Docket: 63365.010100 :  
Title of Invention: Configurable Toy and Item of :  
Wearing Appeal :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b) to revive the application filed on December 1, 2004. This petition is properly treated as a petition to withdraw the holding of abandonment under 37 CFR 1.181.

The petition to withdraw the holding of abandonment is **GRANTED**.

The petition under 37 CFR 1.137(b) is **Dismissed as Moot**.

This above-identified application became abandoned for failure to timely file a response to a non-final Office Action which was mailed on March 22, 2004. The non-final Office Action set a three (3) month shortened statutory period for reply. No extensions of time were obtained under the provisions of 37 CFR §1.136(a). Accordingly, this application became abandoned on June 23, 2004. A Notice of Abandonment was mailed on October 4, 2004.

Petitioner asserts that the non-final Office action on March 22, 2004 was never received. Petitioner states a search of the file jacket and docket records confirms the non-final Office action was not received. In support of petitioner's contention, a copy of the docket records has been provided. The record shows that the mailing was returned to the Office for an unknown reasons.

The Notice of Abandonment is hereby vacated and the holding of abandonment is withdrawn.

The petition fee in the amount of \$685.00 will be refunded to deposit account 50-1561.

This application is being forwarded to Art Unit 3712 for re-mailing of the non-final Office Action to the correspondence address of record. The extendable three month time period for reply will be set to run from the mailing date of the new Office Communication.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3215.

*Charlema R. Grant*

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